

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
GOVERNMENT EMPLOYEES INSURANCE
COMPANY, GEICO INDEMNITY COMPANY,
GEICO GENERAL INSURANCE COMPANY and
GEICO CASUALTY COMPANY,

Docket No.: 16-CV-04826

Plaintiffs,

-against-

21ST CENTURY PHARMACY, INC., ALBERT
ALISHAYEV, AZU AJUDUA, M.D., STARRETT
CITY MEDICAL, P.C., VARUZHAN DOVLATYAN,
M.D., MT. VERNON MEDICAL ONE, P.L.L.C.,
ANDRE DUHAMEL, M.D., MORRIS PARK PRIMARY
MEDICAL CARE, P.C., NOEL HOWELL, M.D.,
KINGSTON MEDICAL, P.C., EDNAN SALAHUDDIN
SHEIKH, M.D. and ACTIVE MEDICAL CARE, P.C.,

**ANSWER TO
COMPLAINT WITH
COUNTERCLAIMS**

**Defendants Demand a
Trial by Jury**

Defendants.

-----X
Defendants, STARRETT CITY MEDICAL, P.C. (“Starrett”) and AZU AJUDUA, M.D.
 (“Ajudua”), by and through their attorneys, RUSSELL FRIEDMAN LAW GROUP, LLP, as and
for an Answer to Plaintiffs’ Complaint, allege as follows:

1. Deny the factual allegations contained in paragraph 1 of the Complaint and leave all questions of law to the Court for its ultimate determination.
2. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 2 of the Complaint.
3. Deny the allegations contained in paragraph 3 of the Complaint.
4. Deny the allegations contained in paragraph 4 of the Complaint.
5. Deny the allegations contained in paragraph 5 of the Complaint.
6. Deny the allegations contained in paragraph 6 of the Complaint.
7. Deny the allegations contained in paragraph 7 of the Complaint.

8. Deny the allegations contained in paragraph 8 of the Complaint.
9. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 9 of the Complaint.
10. Deny the allegations contained in paragraph 10 of the Complaint.
11. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 11 of the Complaint.
12. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 12 of the Complaint.
13. Deny the allegations contained in paragraph 13 of the Complaint except admit that Ajudua resides in and is a citizen of New York and was licensed to practice medicine in New York on April 22, 1977.
14. Deny the allegations contained in paragraph 14 of the Complaint except admit that Starrett City Medical PC is a New York medical professional corporation owned by Ajudua, which was incorporated on or about July 21, 2015 and has its principal place of business at 105-10 Flatlands Avenue, Brooklyn, New York.
15. Deny the allegations contained in paragraph 15 of the Complaint.
16. Deny the allegations contained in paragraph 16 of the Complaint.
17. Deny the allegations contained in paragraph 17 of the Complaint.
18. Deny the allegations contained in paragraph 18 of the Complaint.
19. Deny the allegations contained in paragraph 19 of the Complaint.
20. Deny the allegations contained in paragraph 20 of the Complaint.
21. Deny the allegations contained in paragraph 21 of the Complaint.
22. Deny the allegations contained in paragraph 22 of the Complaint.

23. Deny the factual allegations contained in paragraph 23 of the Complaint and leave all questions of law to the Court for its ultimate determination.

24. Deny the factual allegations contained in paragraph 24 of the Complaint and leave all questions of law to the Court for its ultimate determination.

25. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 25 of the Complaint.

26. Deny the factual allegations contained in paragraph 26 of the Complaint and leave all questions of law to the Court for its ultimate determination.

27. Deny the factual allegations contained in paragraph 27 of the Complaint and leave all questions of law to the Court for its ultimate determination.

28. Deny the factual allegations contained in paragraph 28 of the Complaint and leave all questions of law to the Court for its ultimate determination.

29. Deny the factual allegations contained in paragraph 29 of the Complaint and leave all questions of law to the Court for its ultimate determination.

30. Deny the factual allegations contained in paragraph 30 of the Complaint and leave all questions of law to the Court for its ultimate determination.

31. Deny the factual allegations contained in paragraph 31 of the Complaint and leave all questions of law to the Court for its ultimate determination.

32. Deny the factual allegations contained in paragraph 32 of the Complaint and leave all questions of law to the Court for its ultimate determination.

33. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 33 of the Complaint.

34. Deny the factual allegations contained in paragraph 34 of the Complaint and leave all questions of law to the Court for its ultimate determination.

35. Deny the factual allegations contained in paragraph 35 of the Complaint and leave all questions of law to the Court for its ultimate determination.

36. Deny the factual allegations contained in paragraph 36 of the Complaint and leave all questions of law to the Court for its ultimate determination.

37. Deny the factual allegations contained in paragraph 37 of the Complaint and leave all questions of law to the Court for its ultimate determination.

38. Deny the factual allegations contained in paragraph 38 of the Complaint and leave all questions of law to the Court for its ultimate determination.

39. Deny the factual allegations contained in paragraph 39 of the Complaint and leave all questions of law to the Court for its ultimate determination.

40. Deny the factual allegations contained in paragraph 40 of the Complaint and leave all questions of law to the Court for its ultimate determination.

41. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 41 of the Complaint.

42. Deny the factual allegations contained in paragraph 42 of the Complaint and leave all questions of law to the Court for its ultimate determination.

43. Deny the factual allegations contained in paragraph 43 of the Complaint and leave all questions of law to the Court for its ultimate determination.

44. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 44 of the Complaint.

45. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 45 of the Complaint.

46. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 46 of the Complaint.

47. Deny the allegations contained in paragraph 47 of the Complaint.

48. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 48 of the Complaint.

49. Deny the allegations contained in paragraph 49 of the Complaint.

50. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 50 of the Complaint.

51. Deny the allegations contained in paragraph 51 of the Complaint.

52. Deny the allegations contained in paragraph 52 of the Complaint.

53. Deny the allegations contained in paragraph 53 of the Complaint.

54. Deny the allegations contained in paragraph 54 of the Complaint.

55. Deny the allegations contained in paragraph 55 of the Complaint.

56. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 56 of the Complaint.

57. Deny the allegations contained in paragraph 57 of the Complaint.

58. Deny the allegations contained in paragraph 58 of the Complaint.

59. Deny the allegations contained in paragraph 59 of the Complaint.

60. Deny the allegations contained in paragraph 60 of the Complaint.

61. Deny the allegations contained in paragraph 61 of the Complaint.

62. Deny the allegations contained in paragraph 62 of the Complaint.

63. Deny the allegations contained in paragraph 63 of the Complaint.

64. Deny the factual allegations contained in paragraph 64 of the Complaint and leave all questions of law to the Court for its ultimate determination.

65. Deny the allegations contained in paragraph 65 of the Complaint.

66. Deny the allegations contained in paragraph 66 of the Complaint.

67. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 67 of the Complaint.

68. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 68 of the Complaint.

69. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 69 of the Complaint.

70. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 70 of the Complaint.

71. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 71 of the Complaint.

72. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 72 of the Complaint.

73. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 73 of the Complaint.

74. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 74 of the Complaint.

75. Deny the allegations contained in paragraph 75 of the Complaint.

76. Deny the factual allegations contained in paragraph 76 of the Complaint and leave all questions of law to the Court for its ultimate determination.

77. Deny the factual allegations contained in paragraph 77 of the Complaint and leave all questions of law to the Court for its ultimate determination.

78. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 78 of the Complaint.

79. Deny the allegations contained in paragraph 79 of the Complaint.

80. Deny the allegations contained in paragraph 80 of the Complaint.

81. Deny the allegations contained in paragraph 81 of the Complaint.

82. Deny the allegations contained in paragraph 82 of the Complaint.

83. Deny the allegations contained in paragraph 83 of the Complaint.

84. Deny the factual allegations contained in paragraph 84 of the Complaint and leave all questions of law to the Court for its ultimate determination.

85. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 85 of the Complaint.

86. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 86 of the Complaint.

87. Deny the allegations contained in paragraph 87 of the Complaint.

88. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 88 of the Complaint.

89. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 89 of the Complaint.

90. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 90 of the Complaint.

91. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 91 of the Complaint.

92. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 92 of the Complaint.

93. Deny the allegations contained in paragraph 93 of the Complaint.

94. Deny the allegations contained in paragraph 94 of the Complaint.

95. Deny the allegations contained in paragraph 95 of the Complaint.

96. Deny the allegations contained in paragraph 96 of the Complaint.

97. Deny the allegations contained in paragraph 97 of the Complaint.

98. Deny the allegations contained in paragraph 98 of the Complaint.

99. Deny the allegations contained in paragraph 99 of the Complaint.

100. Deny the allegations contained in paragraph 100 of the Complaint.

101. Deny the allegations contained in paragraph 101 of the Complaint.

102. Deny the allegations contained in paragraph 102 of the Complaint.

103. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 103 of the Complaint.

104. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 104 of the Complaint.

105. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 105 of the Complaint.

106. Deny the allegations contained in paragraph 106 of the Complaint.

107. Deny the factual allegations contained in paragraph 107 of the Complaint and leave all questions of law to the Court for its ultimate determination.

108. Deny the factual allegations contained in paragraph 108 of the Complaint and leave all questions of law to the Court for its ultimate determination.

109. Deny the factual allegations contained in paragraph 109 of the Complaint and leave all questions of law to the Court for its ultimate determination.

110. Deny the factual allegations contained in paragraph 110 of the Complaint and leave all questions of law to the Court for its ultimate determination.

111. Deny the factual allegations contained in paragraph 111 of the Complaint and leave all questions of law to the Court for its ultimate determination.

112. Deny the allegations contained in paragraph 112 of the Complaint.

113. Deny the allegations contained in paragraph 113 of the Complaint.

114. Deny the allegations contained in paragraph 114 of the Complaint.

115. Deny the factual allegations contained in paragraph 115 of the Complaint and leave all questions of law to the Court for its ultimate determination.

116. Deny the factual allegations contained in paragraph 116 of the Complaint and leave all questions of law to the Court for its ultimate determination.

117. Deny the allegations contained in paragraph 117 of the Complaint.

118. Deny the allegations contained in paragraph 118 of the Complaint.

119. Deny the allegations contained in paragraph 119 of the Complaint.

120. Deny the allegations contained in paragraph 120 of the Complaint.

121. Deny the allegations contained in paragraph 121 of the Complaint.

122. Deny the allegations contained in paragraph 122 of the Complaint.

123. Deny the allegations contained in paragraph 123 of the Complaint.

124. Deny the allegations contained in paragraph 124 of the Complaint.

125. Deny the allegations contained in paragraph 125 of the Complaint.

126. Deny the allegations contained in paragraph 126 of the Complaint.

127. Deny the allegations contained in paragraph 127 of the Complaint.

128. Deny the allegations contained in paragraph 128 of the Complaint.

129. Deny the factual allegations contained in paragraph 129 of the Complaint and leave all questions of law to the Court for its ultimate determination.

130. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 130 of the Complaint.

131. Deny the allegations contained in paragraph 131 of the Complaint.

132. Deny the allegations contained in paragraph 132 of the Complaint.

133. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 133 of the Complaint.

134. Deny the factual allegations contained in paragraph 134 of the Complaint and leave all questions of law to the Court for its ultimate determination.

135. Deny the allegations contained in paragraph 135 of the Complaint.

136. Deny the allegations contained in paragraph 136 of the Complaint.

137. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 137 of the Complaint.

138. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 138 of the Complaint.

139. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 139 of the Complaint.

140. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 140 of the Complaint.

141. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 141 of the Complaint.

142. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 142 of the Complaint.

143. Deny the allegations contained in paragraph 143 of the Complaint.

144. Deny the allegations contained in paragraph 144 of the Complaint.

145. Deny the allegations contained in paragraph 145 of the Complaint.

146. Deny the allegations contained in paragraph 146 of the Complaint.

147. Deny the allegations contained in paragraph 147 of the Complaint.

148. Deny the allegations contained in paragraph 148 of the Complaint.

149. Deny the allegations contained in paragraph 149 of the Complaint.

150. Deny the allegations contained in paragraph 150 of the Complaint.

151. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 151 of the Complaint.

152. Deny the allegations contained in paragraph 152 of the Complaint.

153. Deny the factual allegations contained in paragraph 153 of the Complaint and leave all questions of law to the Court for its ultimate determination.

154. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 154 of the Complaint.

155. Deny the factual allegations contained in paragraph 155 of the Complaint and leave all questions of law to the Court for its ultimate determination.

156. Deny the factual allegations contained in paragraph 156 of the Complaint and leave all questions of law to the Court for its ultimate determination.

157. Deny the factual allegations contained in paragraph 157 of the Complaint and leave all questions of law to the Court for its ultimate determination.

158. Deny the factual allegations contained in paragraph 158 of the Complaint and leave all questions of law to the Court for its ultimate determination.

159. Deny the allegations contained in paragraph 159 of the Complaint.

160. Deny the allegations contained in paragraph 160 of the Complaint.

161. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 161 of the Complaint.

162. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 162 of the Complaint.

163. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 163 of the Complaint.

164. Deny the factual allegations contained in paragraph 164 of the Complaint and leave all questions of law to the Court for its ultimate determination.

165. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 165 of the Complaint.

166. Deny the allegations contained in paragraph 166 of the Complaint.

167. Deny the allegations contained in paragraph 167 of the Complaint.

168. Deny the factual allegations contained in paragraph 168 of the Complaint and leave all questions of law to the Court for its ultimate determination.

169. Deny the factual allegations contained in paragraph 169 of the Complaint and leave all questions of law to the Court for its ultimate determination.

170. Deny the factual allegations contained in paragraph 170 of the Complaint and leave all questions of law to the Court for its ultimate determination.

171. Deny the factual allegations contained in paragraph 171 of the Complaint and leave all questions of law to the Court for its ultimate determination.

172. Deny the allegations contained in paragraph 172 of the Complaint.

173. Deny the allegations contained in paragraph 173 of the Complaint.

174. Deny the allegations contained in paragraph 174 of the Complaint.

175. Deny the allegations contained in paragraph 175 of the Complaint.

176. Deny the factual allegations contained in paragraph 176 of the Complaint and leave all questions of law to the Court for its ultimate determination.

177. Deny the allegations contained in paragraph 177 of the Complaint.

178. Deny the allegations contained in paragraph 178 of the Complaint.

179. Deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph 179 of the Complaint.

180. Deny the factual allegations contained in paragraph 180 of the Complaint and leave all questions of law to the Court for its ultimate determination.

181. Deny the allegations contained in paragraph 181 of the Complaint.

182. Deny the factual allegations contained in paragraph 182 of the Complaint and leave all questions of law to the Court for its ultimate determination.

183. Deny the factual allegations contained in paragraph 183 of the Complaint and leave all questions of law to the Court for its ultimate determination.

AS AND FOR A RESPONSE TO THE FIRST CAUSE OF ACTION

184. As to the allegations contained in paragraph 184 of the Complaint, repeat, reiterate and re-allege each and every admission and denial previously made.

185. Deny the factual allegations contained in paragraph 185 of the Complaint and leave all questions of law to the Court for its ultimate determination.

186. Deny the factual allegations contained in paragraph 186 of the Complaint and leave all questions of law to the Court for its ultimate determination.

187. Deny the factual allegations contained in paragraph 187 of the Complaint and leave all questions of law to the Court for its ultimate determination.

AS AND FOR A RESPONSE TO THE SECOND CAUSE OF ACTION

188. As to the allegations contained in paragraph 188 of the Complaint, repeat, reiterate and re-allege each and every admission and denial previously made.

189. Deny the factual allegations contained in paragraph 189 of the Complaint and leave all questions of law to the Court for its ultimate determination.

190. Deny the allegations contained in paragraph 190 of the Complaint.

191. Deny the allegations contained in paragraph 191 of the Complaint.

192. Deny the allegations contained in paragraph 192 of the Complaint.

193. Deny the allegations contained in paragraph 193 of the Complaint.

194. Deny the factual allegations contained in paragraph 194 of the Complaint and leave all questions of law to the Court for its ultimate determination.

AS AND FOR A RESPONSE TO THE THIRD CAUSE OF ACTION

195. As to the allegations contained in paragraph 195 of the Complaint, repeat, reiterate and re-allege each and every admission and denial previously made.

196. Deny the factual allegations contained in paragraph 196 of the Complaint and leave all questions of law to the Court for its ultimate determination.

197. Deny the allegations contained in paragraph 197 of the Complaint.

198. Deny the allegations contained in paragraph 198 of the Complaint.

199. Deny the allegations contained in paragraph 199 of the Complaint.

200. Deny the allegations contained in paragraph 200 of the Complaint.

201. Deny the factual allegations contained in paragraph 201 of the Complaint and leave all questions of law to the Court for its ultimate determination.

AS AND FOR A RESPONSE TO THE FOURTH CAUSE OF ACTION

202. As to the allegations contained in paragraph 202 of the Complaint, repeat, reiterate and re-allege each and every admission and denial previously made.

203. Deny the allegations contained in paragraph 203 of the Complaint.

204. Deny the allegations contained in paragraph 204 of the Complaint.

205. Deny the allegations contained in paragraph 205 of the Complaint.

206. Deny the allegations contained in paragraph 206 of the Complaint.

207. Deny the allegations contained in paragraph 207 of the Complaint.

208. Deny the factual allegations contained in paragraph 208 of the Complaint and leave all questions of law to the Court for its ultimate determination.

AS AND FOR A RESPONSE TO THE FIFTH CAUSE OF ACTION

209. As to the allegations contained in paragraph 209 of the Complaint, repeat, reiterate and re-allege each and every admission and denial previously made.

210. Deny the allegations contained in paragraph 210 of the Complaint.

211. Deny the allegations contained in paragraph 211 of the Complaint.

212. Deny the allegations contained in paragraph 212 of the Complaint.

213. Deny the allegations contained in paragraph 213 of the Complaint.

214. Deny the allegations contained in paragraph 214 of the Complaint.

215. Deny the allegations contained in paragraph 215 of the Complaint.

216. Deny the factual allegations contained in paragraph 216 of the Complaint and leave all questions of law to the Court for its ultimate determination.

AS AND FOR A RESPONSE TO THE SIXTH CAUSE OF ACTION

217. As to the allegations contained in paragraph 217 of the Complaint, repeat, reiterate and re-allege each and every admission and denial previously made.

218. Deny the allegations contained in paragraph 218 of the Complaint.

219. Deny the allegations contained in paragraph 219 of the Complaint.

220. Deny the allegations contained in paragraph 220 of the Complaint.

221. Deny the allegations contained in paragraph 221 of the Complaint.

222. Deny the factual allegations contained in paragraph 222 of the Complaint and leave all questions of law to the Court for its ultimate determination.

AS AND FOR A RESPONSE TO THE JURY DEMAND

223. Deny the factual allegations contained in paragraph 223 of the Complaint and leave all questions of law to the Court for its ultimate determination.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

224. The Complaint fails to state a cause of action against the Answering Defendants.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

225. The actions taken by the Answering Defendants were made in good faith, without malice and in conformity with any and all applicable laws.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

226. The actions complained of were in full accord with applicable State and Federal law.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

227. All or part of Plaintiffs' claims are barred by the doctrine of unclean hands.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

228. All or part of Plaintiffs' claims are barred by the doctrines of res judicata and/or collateral estoppel.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

229. Any and all reliance by Plaintiffs was unreasonable as a matter of law.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

230. All or part of Plaintiffs' claims are barred by the doctrine of laches.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

231. The Complaint fails to state a cause of action as it fails to properly allege all requisite elements of a RICO conspiracy under 18 USC 1962(c).

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

232. Plaintiffs have failed to meet statutory and/or legal conditions precedent to bring some or all the allegations contained in the Complaint.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

233. The Complaint fails to state a cause of action as it fails to properly allege all requisite elements of a RICO conspiracy under 18 USC 1962(d).

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

234. All or part of the Complaint is barred by the statute of limitations.

JURY DEMAND

235. Pursuant to FRCP 38(b), Answering Defendants demand a trial by jury.

AS AND FOR A COUNTERCLAIM

1. The Plaintiffs include an insurance carrier which has commenced an action which seeks declarations that it is not required to defend claims accruing under policies which it provided to various insureds.

2. The Plaintiffs include an insurance carrier which has commenced an action which seeks declarations that it is not required to pay first party benefits accruing under policies which it provided to various insureds.

3. The Plaintiffs' actions serve to unduly burden medical providers such as Starrett and Ajudua by requiring them to participate in a lawsuit which would not have been necessary had the Plaintiffs followed the New York State Insurance Department's Regulations governing the investigation of claims for no-fault benefits.

4. Under New York law, an insured who is cast in a defensive posture by the legal steps an insurer takes in an effort to free itself from its policy obligations and who prevails on the merits, may recover attorneys' fees incurred in defending against the insurer's action.

5. Under New York law, an insurer's duty to defend an insured extends to the defense of any action arising out of the occurrence, including a defense against an insurer's declaratory judgment action.

6. As Plaintiffs have commenced a declaratory judgment action which unnecessarily burdens Starrett and Ajudua, Plaintiffs will be responsible for Starrett Medical and Ajudua's attorney's fees, should Starrett and Ajudua prevail on the merits.

WHEREFORE, Answering Defendants demand judgment dismissing Plaintiffs' Complaint in its entirety and that the Court award such other and further relief including but not limited to an award of the costs and disbursements of this action as well as the attorney's fees sustained in the defense of the within action.

Dated: Lake Success, New York
October 6, 2016

Yours, etc.,
RUSSELL FRIEDMAN LAW GROUP, LLP
*Attorneys for Defendants Starrett City Medical, P.C.
and Azu Ajudua, M.D.*

By: /S/
Charles Horn
3000 Marcus Avenue, Suite 2E03
Lake Success, New York 11042
Tel.: 516.355.9696